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~~CREDIT AND DEBT MANAGEMENT~~ ~~OPERATING STANDARDS AND PROCEDURES HANDBOOK~~ **PROCEDURES FOR LOANS AND LOAN GUARANTEES**

~~CHAPTER 5.~~ **PART I - PRE-AWARD EVALUATION**

Section 1.0 General

This chapter establishes procedures to ensure that pre-award practices within the Department of Commerce will include the requirements established under OMB Circular A-129, "~~Managing Federal Credit Programs,~~" **Policies For Federal Credit Programs And Non-Tax Receivables®** and ~~OMB Circular A-70, "Federal Credit Policy,"~~ and will be consistent with Department management objectives.

~~A summary review of the major steps to be taken by organization unit loan officials in the pre-award evaluation process is provided in Exhibit 5-1.~~

Section 2.0 Private Sector Screening of Applicants **Applicant Screening**

The following standards will apply to screening all loan, **and** loan guarantee, ~~grant, cooperative agreement, and financial contract~~ applicants:

.01 Credit Reports

- a. ~~Subject to the conditions contained in Appendix A of this Handbook,~~ **C**redit reports will be obtained on loan and loan guarantee applicants (including individuals and both non-profit and commercial organizations) before awards are made. Credit reports will also be obtained on all major principals of a partnership or privately-held corporation.

~~Subject to the conditions in Appendix A the Credit Extension section of this appendix, organization units shall obtain credit reports before awarding grants, cooperative agreements, or contracts to new (first-time) and all high-risk non-profit or commercial organizations when making a determination of financial responsibility. If the grant or contract is~~

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~~awarded to a partnership or privately held corporation, the organization unit shall obtain a credit report on all major principals. In order to minimize costs, organization units may obtain credit reports after selection but before actual obligation of funds. First-time organizations are those that have not received a grant within the last two fiscal years. High-risk organizations are those designated according to section 7 of the grants management common rule or OMB Circular A-110. For existing contractors and grantees, organization units shall obtain credit reports when there is reason to believe that performance is substandard or there is evidence of financial problems. For detailed instructions on limitations and exceptions to the above, refer to Appendix A.~~

Credit reports shall generally be obtained through the Federal Supply Schedule negotiated by the General Services Administration (GSA). A listing of approved credit report contractors can be found at **GSA's website:** <http://pub.fss.gsa.gov/services/bis/awarded-cont.cfm>. ~~and detailed guidance on obtaining a report are also provided in Appendix A.~~

- b. Organization units are not required to obtain credit reports on State or local governments or federally recognized Indian Tribal Governments.
- c. Organization units shall also obtain credit reports on all existing debtors prior to restructuring, refinancing, or rescheduling loans and loan guarantees, and prior to making changes in any terms and conditions of the original credit agreement (also see Chapter 7, Section 4.0, "Changes to Loan Agreements").
- d. Information presented in applications shall be verified by comparison with private sector credit reports and by use of other verification procedures.
- e. In addition to using credit reports to identify an applicant's financial relationship with the private sector, organization units shall also ensure that credit reports are used to identify applicants in default on other Federal programs

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and to identify other financial relationships that applicants may have with other Federal agencies.

~~.02~~ f. Privacy Act Compliance

In obtaining and using credit reports, organization units shall ensure that loan and debt information on individuals is managed and used in accordance with the Privacy Act. The Privacy Act applies only to credit information relating to individuals; the Act does not apply to credit/debt information relating to commercial organizations. Guidance on obtaining and using credit report information is provided in ~~Appendix A of this Handbook~~ **Sections 15 through 17 of this Appendix.**

Section 3.0 IRS Screening of Applicants

.02 IRS Account Files

~~.01~~ a. Taxpayer Identification Number

Organization units shall obtain taxpayer identification numbers from all ~~financial assistance and procurement applicants~~ **loan and loan guarantee**. This will include the Employer Identification Number (EIN) for commercial organizations, and the Social Security Number (SSN) for individuals seeking financial assistance. This information will be included on SF-424, "Financial Assistance," or any other approved application form(s) required by an organization unit.

~~.02~~ b. IRS Account Files

Applicants for loan and loan guarantee programs shall also be screened against Internal Revenue Service (IRS) delinquent taxpayer account files.

Procedures for screening delinquent taxpayer accounts are provided in Appendix D of this Handbook.

.03 Credit Alert Interactive Voice Response System(CAIVRS) (See Section 29 of this Appendix.)

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According to the guideline established under OMB Circular A-129, organization units should use Department of Housing And Urban Development's Credit Alert Interactive Voice Response System(CAIVRS) for loan screening to ensure applicants are not delinquent on Federal Debt. The System offers direct on-line access for delinquent debt from other major credit programs.

Section 4.0 3.0 Credit Analysis and Ability to Repay

.01 Applicant's Creditworthiness

~~Consistent with the policy in Chapter 3, Section 2,~~ eOrganization units shall perform an analysis of each credit application and shall assess the applicant's creditworthiness, financial responsibility, and ability to repay. The assessment must address the "Five C's" of credit analysis--character, capacity, capital, conditions, and collateral. At a minimum, the analysis should include the following:

- a. For individuals: employment history, current income and indebtedness, repayment of prior debts, assets, potential future income, and indebtedness;

For commercial organizations: balance sheet, income statement, cashflow statement, market position, strength of competition (including foreign competition), marketing strategy, working capital assessment, asset ratios, analysis of market share, ownership, management expertise, appraisals of guarantees, and collateral;

- b. Review of audited financial statements and income tax returns; and
- c. Determination of whether collateral is insured or pledged on other debts.

.02 Applicant's Risk Profile

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Organization unit loan officers shall ensure that the actual credit risks and costs are compatible with program objectives by:

- a. Investigating credit histories;
- b. Determining risk ratings (~~see Appendix F~~); and
- c. Comparing risk of individual and commercial applicants with program objectives established by enabling statute.

.03 Private Sector Financing

When a credit analysis concludes that an applicant is likely to qualify for private sector financing, the organization unit loan officer shall recommend that the applicant seek private lending sources unless authorizing statutes provide otherwise. In no instance will an official refer the name of an individual or commercial organization to a private sector financial institution.

Section 4.0 Applicant's Outstanding Debt(s) with Federal Agencies

Unless a waiver has been obtained in accordance with the Debt Collection Improvement Act of 1996, a person may not obtain any Department of Commerce financial assistance in the form of a loan (other than a disaster loan) or loan insurance or guarantee administered by the Department if the person has an outstanding debt (other than debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards.

~~Special attention should be given to the identification and resolution of outstanding debts, either with other Department organization units or Federal agencies in evaluating financial assistance applications. Specifically, organization units will ensure that the following areas are covered:~~

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~~.01 Request of Applicant~~

~~Applicants will be required to identify and submit, in writing with their applications, any unresolved debt(s) under any Federal financial assistance program(s) in which they participate.~~

~~.02 Coordination with Other Federal Agencies~~

~~When an applicant is found to be delinquent on a debt with another Federal agency or organization unit of the Department, including a debt that has been written off but not reported to the IRS, the organization unit shall suspend processing of the application for Federal financial assistance or require the private lender to suspend processing of the loan guarantee application. The applicant must provide evidence that payment has been or is being made or that other satisfactory arrangements have been made between the Federal agency and the debtor applicant to resolve the delinquency. The organization unit must request validation from the Federal agency or organization unit owed the debt that the debt is no longer delinquent. Upon review of the facts and circumstances, the head of the organization unit providing the financial assistance, or his/her designee, may waive the requirement that the applicant not be delinquent on the repayment of any Federal debt; however, the waiver must be based upon a specific determination that it is in the best interests of the Government to proceed with the application. The waiver decision shall be documented in the applicant's file. For the purposes of this subsection, only debts that are 60 days delinquent and over \$100 shall be considered.~~

~~Moreover, a debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.~~

~~.03 Protective Clause~~

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~~If, in an exceptional case, an organization unit recommends an award to an applicant when there is an unresolved debt, a protective clause(s) will be included in the agreement terms and conditions to:~~

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- ~~a. Allow withholding of amounts in question; and~~
- ~~b. Terminate or suspend disbursements without reasonable notice if the Government determines that it is necessary.~~

~~.04 Justification for Approval~~

~~The head of the organization unit will include with his/her recommendation to the Financial Assistance Review Board (FARB) a justification for clearing an award to a proposed recipient who has a delinquent debt.~~

(Section 4.0 has been moved from where it was originally placed as Section 8.0)

Section 5.0 Loan Application, Origination, and Guarantee Fees

Consistent with statutory prohibitions and requirements of enabling legislation, loan application, origination, and guarantee fees shall be assessed on direct loans provided or loans guaranteed by the Department, to defray administrative costs, estimated losses and other costs, or to comply with regulatory or other requirements.

.01 Application Fees

Application fees shall be established to recover the costs of obtaining credit reports and the administrative costs of reviewing and processing applications. The fees will be collected at the time the application is submitted to the organization unit. Exceptions may be made for unsuccessful applicants on the basis of need.

.02 Origination Fees

Origination fees shall be assessed on direct loans to defray administrative and other costs. The fee

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shall be collected prior to award of a direct loan or subtracted from the initial disbursement.

.03 Guarantee Fees

Fees shall be required on guaranteed loans to cover organization unit administrative and servicing costs, as well as all or a portion of the estimated cost to the Government of defaults under the programs involved.

Section ~~9.0~~ 6.0 Interest Rates

.01 Acceptable Interest Rates

a. The method for determining an acceptable interest rate will vary depending on the type of assistance (direct loan or guaranteed loan).

1. For direct loans, the organization unit will set the interest rate based on the provisions of the statute which governs the loan program or on a private sector (market) benchmark rate as required in OMB Circular ~~A-70~~ A-129.

The interest rate on a direct loan need not be equal to the interest rate of the benchmark instrument. When interest rates on new direct loans are intended to be below the market or benchmark rate, the interest rate on the direct loan must be stated in terms of its relationship to the benchmark rate.*

2. For guaranteed loans, the interest rate is negotiated between the borrower and the lender. The organization unit will not establish administrative ceilings on interest rates for guaranteed loans. Rather, the

*If the governing statute provides for an interest rate which is not in conformity with the interest rate and other policies of OMB Circular ~~A-70~~ A-129, Department organization units in their annual budget submission and justification to OMB and the Congress will propose legislative language to correct the inconsistency. When the organization unit deems no change to existing legislation is desirable, it will provide a separate justification for retaining the existing nonconforming legislative requirement in its annual budget submission and justification to OMB.

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organization unit will review the interest rate on each guaranteed loan, comparing it to interest rates on other loans of similar character (i.e., size of loan, purpose, collateral, terms, and market conditions). If the interest rate for a

guaranteed loan is found to be excessive, the application should be rejected.

.02 Types of Interest Rates

- a. Interest rates on direct loans may remain fixed over the life of the loan or may be adjustable, i.e., vary with financial market conditions. The rate will be referenced to a benchmark financial market instrument. Interest rates to be charged on new direct loans will be reviewed by organization units at least quarterly, and when market conditions have changed, adjusted by the organization unit to reflect corresponding changes in the market interest rate of the benchmark financial instrument chosen.
- b. Interest rates on guaranteed loans may also remain fixed, or may fluctuate with the movement of some reference market rate (i.e., the benchmark adopted by the lender) over the life of the loan.

The organization unit shall require the following information to appear on the notes for guaranteed variable rate loans:

1. The rate being used as the benchmark;
2. The publication in which the benchmark appears (if applicable);
3. The lender's permanent point spread to be added to or subtracted from the benchmark;
4. The initial rate of the loan;
5. The date of the first rate adjustment;
6. The frequency of the rate adjustment; and
7. The method of determining the benchmark, if the benchmark is expressed as a range.

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Organization unit loan officers shall establish a payment schedule for each type of loan similar to that prevailing in the private sector for that type of debt. For rescheduled loans, debt repayment will be scheduled on a monthly basis, unless the head of an organization unit (or designee) determines extenuating circumstances exist.

Section 8.0 Debt Collection Certification

Organization units shall inform commercial organization and individual applicants for all financial assistance actions of Federal debt collection policies and procedures prior to extending credit or making an award.

Loan, **and** loan guarantee, ~~grant, cooperative agreement, and financial contract~~ applicants shall be required to sign a certification statement (Exhibits ~~5-2 or 5-3~~ **A-1 or A-2**, as appropriate and modified to reflect the financial assistance being provided) prior to award. The signed statement shall be maintained as part of the official file. Debt collection officials must not construe the statement as a notification under the ~~Debt Collection Act of 1982~~ **Debt Collection Improvement Act of 1996** or the Deficit Reduction Act of 1984.

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Section 9.0 ~~Financial Assistance Application Approval~~ **Financial Assistance Review Board(FARB)Review**

01. Awards with Federal Funding in an Amount Over \$100,000

Once an award with Federal funding over \$100,000 is ready to be approved, the organization unit shall provide an electronic version of the Form CD-478, **A**Federal Assistance Information Sheet,[®] to Office of Executive Management(OEAM). OEAM will notify the Office of Legislative and Inter-governmental Affairs (OLIA) of all awards over \$100,000. OLIA should notify Congress or other appropriate officials within two workdays that these proposed awards are pending and will be made shortly. OLIA may, at its discretion, authorize a different procedure for notifying Congress of pending awards. Two workdays after OEAM notification to OLIA, OEAM may notify the Approving Official tht the award may be approved unless OLIA asks OEAM during the two-workday period to delay notification to the Approving Official. If

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OLIA requests a delay in notification to the Approving Official, OLIA will advise OEAM the reason for the delay and an estimated date for release of the award to the Approving Official.

02. Awards with Federal Funding in the Amount of \$100,000 and Under

The Grants Office will notify the operating units Office of Congressional Affairs (OCA) of all pending awards of \$100,000 or less. OCA will notify Congress that these proposed awards are pending and they will be made shortly.

~~Applications for financial assistance which are recommended for approval by organization units must meet the standards set forth in this Handbook and are subject to review prior to award by an organization unit.~~

~~.01 FARB Review~~

~~All applications for financial assistance recommended for approval by organization units will be reviewed by the Financial Assistance Review Board (FARB). Submissions by organization units should be made to the FARB through the Director for Federal Assistance and Management Support, on a continuing basis (not all applications at one time) to permit timely review (normally ten (10) day turnaround). To the extent possible, submissions should be made before the fourth quarter of the fiscal year. When the FARB and the head of the organization unit disagree on whether an award should be made, the organization unit head may prepare a position paper setting forth the reasons for going forward with the financial assistance. The financial assistance application and position paper may be referred to the Deputy Secretary for final decision should the organization head wish to appeal the FARB's decision.~~

~~.02 Secretarial Review~~

~~The Deputy Secretary retains the right of refusal on all applications for financial assistance.~~

Section 10.0 Loan Guarantee Requirements

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Organization units will incorporate OMB Circular A-129 standards into agreements with private lenders on guaranteed loans. Responsible unit loan officials will monitor performance of the lenders of guaranteed loans to ensure "due diligence" in the application of OMB Circular A-129 standards in extending and servicing the guaranteed loan.

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Exhibit 5-1

APPLICANT CERTIFICATION
FEDERAL COLLECTION POLICIES FOR CONSUMER DEBTS

The Department of Commerce is authorized by law to take any or all of the following actions in the event your loan payments become delinquent or you default on your loan:

- o Report your name and account information to a credit bureau.
- o Assess additional interest and penalty charges for the period of time payment is not made.
- o Assess charges to cover additional administrative costs incurred by the Government to service your account.
- o Offset amounts owed to you under other Federal programs.
- o **Refer your account to Department of Treasury for cross-serving to collect the amount due.**
- o Refer your account to a private collection agency to collect the amount due.
- o Refer your account to the Department of Justice for litigation in the courts.
- o If you are a current or retired Federal employee, take action to offset your salary or civil service retirement benefits.
- o Refer your debt to the Internal Revenue Service for offset against any amount owed to you as an income tax refund.
- o Report any written-off debt to the Internal Revenue Service as taxable income.
- o Suspend processing of future applications for loans, loan guarantees, grants, or contracts until the amount due has been paid.

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All these actions can and will be used to recover any debts owed when it is determined to be in the interest of the Government to do so.

Certification

I have read and I understand the actions the Federal Government can take in the event that I fail to meet my scheduled payments in accordance with the terms and conditions of my agreement.

Signed: _____

Date: _____

Address: _____

Telephone No.: () _____

APPLICANT CERTIFICATION
FEDERAL COLLECTION POLICIES FOR COMMERCIAL DEBTS

The Department of Commerce is authorized by law to take any or all of the following actions in the event your loan payments become delinquent or you default on your loan:

- o Report your delinquent account to a credit bureau.
- o Assess additional interest and penalty charges for the period of time that payment is not made.
- o Assess charges to cover additional administrative costs incurred by the Government to service your account.
- o Offset amounts owed to you under other Federal programs.
- o **Refer your account to Department of Treasury for cross-serving to collect the amount due.**
- o Refer your account to a private collection agency to collect the amount due.
- o Refer your account to the Department of Justice for litigation in the courts.
- o Suspend or debar you from doing business with the Federal Government.
- o Refer your debt to the Internal Revenue Service for offset against any amount owed to you as an income tax refund.
- o Report any written-off debt to the Internal Revenue Service as taxable income.

All these actions can and will be used to recover any debts owed when it is determined to be in the interest of the Government to do so.

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Certification

I have read and I understand the actions the Federal Government can take in the event that I fail to meet my scheduled payments in accordance with the terms and conditions of my agreement.

Signed: _____

Date: _____

Position with
Commercial
Organization: _____

Telephone No.: () _____

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~~CHAPTER 6.~~ **PART II - CREDIT EXTENSION**

~~Section 1.0~~ **11.0 General**

This chapter provides the essential procedures for loan requests that have completed the pre-evaluation process through reservation of funds and approval by the organization unit's designated approving official, and covers the process of loan settlement, disbursement of obligated loan funds, and establishment of the official loan file. A summary of the major steps to be taken by organization unit loan and/or approving officials in the credit extension process is provided in Exhibit 6-1.

~~Section 2.0~~ **12.0 Loan Closing**

Loan closing covers the period from final approval by the organization unit through acceptance of the offered loan by the potential borrower, obligation of funds, and issuance of the check (or electronic funds transfer) to the borrower for the obligated loan funds. The four critical phases in this process are described below:

.01 Contact with Borrower

The loan officer contacts the potential borrower to ensure:

- a. Receipt of the original executed loan offer together with its terms and conditions;
- b. Establishment of a date when the borrower will accept the offer if the date is not already established; and
- c. Resolution of questions and/or issues necessary to expedite the borrower's acceptance of the offer.

.02 Review of Loan Documents

The loan officer and legal counsel shall make a final review of the draft loan and/or final collateral documents and supporting papers to determine compliance with terms and requirements of the accepted offer. (Collateral documents associated with governments, units of government, quasi-public bodies and Indian tribes are not necessarily in final form at this stage, i.e., revenue bonds, warrants.)

The loan document must contain an explicit statement of a borrower's rights and responsibilities; this should be accomplished in a separate appendix to the loan agreement. This includes making explicit the conditions, if any, for borrowers to make prepayments.

.03 Obligation of Funds

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The loan officer forwards the accepted offer to the accounting or finance office to record the obligation of funds. All documents are to be returned to the official loan file.

.04 Payment to Borrower

After all final documents are received and determined to be legally sufficient for the purposes of the loan agreement, the funds are electronically transferred or a check is presented by the loan officer to the borrower **in accordance with the provisions of the Debt Collection Improvement Act of 1996.**

Section ~~3.0~~ 13.0 Disbursement of Funds

.01 Requisition for Payment

Loan funds disbursed by Treasury check will be in accordance with Treasury Financial Manual (TFM), Part 4, Chapter 2000, <http://www.fms.treas.gov/tfm/vltoc.html>. Disbursements by electronic funds transfer (EFT) will be in accordance with TFM, Part 4, Chapter 2500. Payment will occur after the following steps have been completed:

- a. When the loan officer and counsel have determined that the accepted loan agreement and all collateral documents are sufficient to authorize a disbursement, the loan officer will prepare a requisition and forward it to the organization unit's accounting or finance office. The accounting or finance office will secure and forward the check to the loan officer who will exchange the check (or present evidence of prepared SF 1166) for the final collateral documents, certificates and other supporting papers from the borrower, if such documents have not already been provided by the borrower before this date. The loan officer will maintain liaison between the accounting or finance office and the borrower and provide the accounting or finance office with a receipt for the check from the borrower. If more than fifteen (15) working days elapse between issuance of the check and the final exchange (the loan closing), the loan officer will return the check to the accounting or finance office for cancellation and reissuance at the proper time, or instruct the accounting or finance office to cancel the EFT request, whichever is appropriate. The loan officer will report monthly to the accounting or finance officer the number of checks which have not been disbursed.
- b. The accounting or finance office will request the Treasury check or electronic funds transfer using the prescribed forms and procedures after receiving the requisition in Section 3.01 a., above, and will establish the effective interest rate as of the loan closing date in Section 3.01 a., above.

.02 Payment Terms and Conditions

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The timing and requirements for draw-downs under letters of credit or requests for disbursements by Treasury check or electronic funds transfer will be set forth in the loan agreement terms and conditions, as well as specific prohibitions on reinvestment of draw-downs for non-loan related purposes. Although initial disbursements for direct loans may be by check at loan closing, organization units should consider EFT for any subsequent partial and/or progress payment that may be made under a loan agreement.

Section 4.0 14.0 Official Loan File

.01 Establishment of File

The organization unit granting the loan will designate the responsible official who will establish the official loan file. Organization units will establish separate loan and collateral file systems so that the collateral documents will not be available to unauthorized individuals and will be properly safeguarded.

.02 Content of File

All files related to each loan are official and must contain the following information on the history and status of each loan:

- a. Applicant or debtor name, address, telephone number, and taxpayer identification number (either Employer Identification Number (EIN), or Social Security Number (SSN) if the applicant is an individual);
- b. Original application and supporting papers including financial reports, credit bureau report(s), property descriptions, and legal papers;
- c. Current copy of the loan offer and terms and conditions, including payment schedules;
- d. Statement of purpose for which credit was extended;
- e. All original internal review documents required for program, financial, and legal findings;
- f. Organization unit credit risk rating and financial and market analyses for commercial loans;
- g. Original copy of the finally accepted and obligated loan offer and the terms and conditions, including payment schedules;
- h. All letters, memoranda, legal opinions and requisitions for disbursement pertaining to negotiations and closure of the loan, including summary of telephone contacts between organization unit officials and the applicant; and
- i. All legal documents pertaining to the loan closure, including collateral documents (appraisal of collateral, including values of guarantees for secured loans), certificates, bond

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counsel opinions, charter resolution(s), minutes of proceedings, and title opinions.

.03 Maintenance of File

The loan file should be readily accessible to and maintained by the responsible loan officer. The file will be updated by that individual as required to provide information on the account status, payment history, and any rescheduling.

.04 Retirement of File

The file should be retired when the loan is paid in full and all conditions of the agreement satisfied, or when the loan has been officially terminated or liquidated. See Chapter 10 for further information on close-outs. Organization units will follow Department approved record control schedules, as authorized in DAO 205-1, "Records and Other Documents Disposition Management Program," relative to retiring, transferring, and disposing of records.

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Exhibit 6-1 (**DELETED**)

PART III - CREDITING REPORTING AND OMB CIRCULAR A-129

Section 15 OBTAINING AND USING CREDIT REPORTS

A Section 1.0 Introduction

Office of Management and Budget Circular A-129, "Managing Federal Credit Programs," ([see http://www.whitehouse.gov/OMB/circulars/a129/a129.html](http://www.whitehouse.gov/OMB/circulars/a129/a129.html)) requires that information presented in applications submitted by financial assistance applicants be verified by comparison to credit reports and by use of other verification procedures. The Circular also provides general guidance to Federal agencies on the use of private sector commercial and consumer credit reports.

This ~~appendix~~ **section** provides:

- (1) Information on how private sector credit bureau reports will be obtained through the General Services Administration (GSA) Federal Supply Schedule contracts for such items and services;
- (2) Guidance on when credit reports will be obtained throughout the credit/debt management cycle--from extending credit through debt collection and write-off; and
- (3) Information on supplemental services provided by credit bureaus, as well as other sources of information that are available to determine an applicant's financial status and ability to repay a debt owed the Federal Government.

A-Section-2.0 **16.0** Background

The Debt Collection Act of 1982 permits all Federal departments and agencies to report all non-tax commercial debts, and all delinquent non-tax consumer (individual) debts, to private sector credit reporting bureaus. Government originated credit, debt, and contracting information is now added by the credit reporting bureaus to similar information which has been gathered for some years in the private business community. As a result, any Federal Government agency should now be able to obtain a complete credit profile of a financial assistance

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applicant or contractor, not only in terms of the financial or debt relationship that an applicant or prospective contractor may have with private sector businesses and financial entities, but also with other Federal agencies. ~~A schematic layout of the information exchange is provided in Exhibit B-1, Appendix B.~~ Some credit bureaus specialize in either consumer or commercial credit reporting, whereas others cover both categories of credit reporting. The GSA-approved supply schedule for obtaining routine credit reports consists of awards to several firms that have the automated capacity to incorporate Governmentwide credit, debt, and contracting information into their credit reports. With the greater exchange of credit and debt information between the Government and the private sector, the use of credit bureau services is expected to enable agencies to improve the quality of their credit decisions as well as enhance their debt collection capabilities.

~~A-Section 3.0~~ 17.0 Policy

The services of credit bureaus will be employed to obtain credit reports. Credit reports will be obtained and used by organization units:

- (1) To help verify application data and determine the creditworthiness of all loan, loan guarantee, and grant applicants, and of potential contractors for contracts over \$25,000;
- (2) To assist in establishing whether such applicants or contractors have any outstanding debts with another Federal Government agency;
- (3) When a loan, loan guarantee, or audit disallowance in excess of \$10,000 is delinquent for thirty (30) or more days; or
- (4) If the organization unit must refer the delinquent debt to GAO for resolution and instructions prior to proceeding with collection action and/or referral to the Department of Justice for litigation.

Each organization unit must determine the relative importance to be assigned credit reports. The importance given to credit reports by organization units in providing financial assistance or contracts should be based on such factors as the amount of the potential award, the risk of default or nonpayment, the organization unit's prior experience with the applicant or contractor, and the existence of other possible means of

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evaluating the credit or financial reliability of the applicant or prospective contractor.

~~A-Section-4.0~~ **18.0** Source of Procurement

GSA has awarded contracts to a number of credit reporting companies from which Federal departments and agencies can purchase credit reports. The GSA web site at <http://pub.fss.gsa.gov/services/bis/awarded-cont.cfm> **list the current Contractors for obtaining credit reports.** ~~Federal Supply Schedule, dated September 10, 1990, entitled "Factual Data Reports: Consumer and Commercial Credit" lists current contractors and is provided in this appendix as Exhibit A-1. The GSA Federal Supply Schedule is the mandatory source of supply for organization units directly acquiring routine credit reports; no other contracts can be executed to obtain credit report services. Those contracts awarded by individual organization units which were in effect at the time GSA awarded its supply schedule contracts may remain in effect and be used until their expiration date. Questions regarding the GSA Federal Supply Schedule and the items and services included should be directed to: General Services Administration FSS, Information Center (FFN), Washington, D.C. 20406, telephone (703) 557-8177. Product lists and prices of individual services can be obtained directly from the GSA-approved vendors.~~

~~However, if an organization unit determines that an item or service included on the GSA Federal Supply Schedule will not serve the end purpose required by the organization unit, procurement of a similar article or service having the same general characteristics of the GSA Federal Supply Schedule article or service is authorized, provided that a written waiver of the requirement for using the GSA Federal Supply Schedule is obtained from the Director for Financial Management (OFM). The Director for Financial Management must request a waiver from the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406, in accordance with Federal Property Management Regulations 101-26.100-2.~~

~~A-Section-5.0~~ **19.0** Routine Credit Report Requirements

To ensure that credit reports are used when necessary and in the most efficient and timely manner, organization units will:

- .01 Identify the ~~grant, loan, or~~ **or** loan guarantee, ~~or~~ contracting activities for which credit reports will be used in accordance with the following guidelines.

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- a. When considering a new application from individuals or businesses for loans, **or** loan guarantees, ~~contracts over \$25,000, or grants;~~
 - b. When individuals or businesses are refinancing or rescheduling any type of debt payments;
 - c. When a debtor claims the financial inability to pay a debt in a lump sum, and verification is required of the debtor's financial status prior to entering into an installment arrangement;
 - d. When a loan, **or** loan guarantee, ~~grant, cooperative agreement, or contract with a balance in excess of \$10,000~~ is delinquent or non-performing for thirty (30) or more days;
 - e. When a delinquent debt is referred to ~~GAO~~ **the Department of Justice** for litigation or for recommended action in terms of validity of the claim or propriety of compromise, suspension, or termination of collection action, ~~or the Department of Justice for litigation;~~
 - f. To identify applicants in default on other Federal programs;
 - g. To identify other financial relationships that delinquent debtors may have with other Federal agencies in order to take advantage of opportunities for administrative offset; or
 - h. To facilitate the organization unit's determination of the next collection step(s) to be pursued when a defaulted guaranteed loan is purchased from the lender under the guarantee agreement.
- .02 Obtain credit reports by telephone, mail, or on-line terminals.
- .03 Provide guidance to bureau officials on how credit reports will be used/weighed in the decision-making process when awarding a loan, **or** loan guarantee, ~~contract, or grant.~~

A-Section-6.0 **20.0** Retention of Credit Reports

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Credit reports will be made a part of the official award file.

Credit reports will also be made a part of the records maintained by organization units in performing risk analyses required by OMB Circular A-129. In performing and updating such analyses, organization units will obtain credit reports on loan and loan guarantee recipients at least semiannually.

A-Section-7.0 **21.0** Supplemental Reports

In addition to covering routine credit reports, the GSA Federal Supply Schedule (Exhibit A-1) also provides for supplemental business information services and special customized business information reports. A list of these supplies and services is provided in the GSA Federal Supply Schedule. These supplemental reports may be of valuable assistance in performing portfolio risk analyses and supporting the debt collection effort.

A-Section-8.0 **22.0** Main Library Resources

The Main Library, Room 7046 Herbert C. Hoover Building, Washington, D.C., has on-line terminals for obtaining routine commercial credit reports. Organization units may use these resources by calling the Reader Services Division (RSD) on (202) 377-1916, if they are not able to procure the services directly, or in the event that they may want to supplement existing unit credit report resources on an occasional basis. However, organization units must first notify the Chief of RSD of those individuals who are authorized to request credit reports for the organization unit.

In addition to routine credit reports, the Main Library also subscribes to a number of private sector business and financial information retrieval services and CD ROM-based systems. These data files contain a collection of company reports, industry reports, and industry analyses and are compiled by widely respected investment banking, brokerage, and research firms. For information or a demonstration, call the Main Library on (202) 377-5511.

A-Section-9.0 **23.0** Outstanding Federal Debts

Where a credit report discloses that an applicant is delinquent on a Federal debt, has been debarred or suspended as a contractor by a Federal agency, or has otherwise failed to meet debt obligations to the Federal Government, no award shall be

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made without consulting the other affected Federal agency(s). Where a credit report discloses that a delinquent debtor is a current or prospective recipient of another Federal loan, contract, or grant, the debt may be collected by administrative offset against payments due to the individual or business, using procedures set forth in the Federal Claims Collection Standards, and the Department's regulations on offsets. The Department's regulations on administrative offset, as published in 15 CFR 21, are contained in Appendix E of this Handbook.

~~A-Section-10.0~~ **24.0** Identification of Offset Opportunity

If a debtor fails to make payment on any debt owed the Department--whether relating to a loan, loan guarantee, grant, contract, or any other debt--a credit report on the debtor will be immediately obtained by the organization unit workout group(s) when the debt is referred to the group to determine whether the opportunity exists for the organization unit to execute an administrative or salary offset in cooperation with another Federal agency against the amount owed. Since the content of credit reports varies by credit bureau, with some bureaus providing more detailed credit/debt information, organization units may determine that obtaining one or more credit reports is justified to ensure that any possible opportunity for offset is identified.

~~A-Section-11.0~~ **25.0** Privacy Act of 1974 Compliance

Organization units shall ensure that debt information on individuals is managed and used in accordance with the Privacy Act (P.L. 93-579, 5 U.S.C. 552a). Specifically, in regard to financial transactions the Privacy Act states, in part, that:

"No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties."

~~A-Section-12.0~~ **26.0** Fair Credit Reporting Act (P.L. 91-508) Compliance

- .01 Organization unit officials must ensure that credit reports on individuals are only obtained and used for the following reasons:

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- a. For the purpose of evaluating a credit transaction or reviewing or collecting an outstanding debt; or
 - b. For the purpose of determining an applicant's financial responsibility or status.
- .02 Organization unit officials must be aware that under the Act any user of credit report information who fails to comply with the privacy requirements of the Act is subject to civil liability for willful or negligent noncompliance with the requirements of the Act. Further, any person who knowingly and willfully obtains information on an individual from a consumer reporting agency under false pretense, and/or who is not authorized to obtain such information, is subject to fine and/or imprisonment.

~~A-Section-13.0~~ **27.0** Currency of Credit Data

There may be occasions when credit reports obtained by organization units are not current or appear incomplete. The credit bureaus preparing these reports are required under the GSA Federal Supply Schedule to make every effort to provide the most up-to-date credit information available on individuals and businesses, as well as nonprofit entities. However, organization units should be aware that credit bureau procedures are such that inquiries from the using public, as well as financial transactions of the credit recipient, by and large control the continuous updating of individual accounts. These updating procedures vary among credit bureaus.

Consequently, if inquiries are not made over a period of time, or transactions do not occur, individual files become "stale."

Therefore, if a credit report does not appear current, or if an organization unit wants to ensure the most current information is available, direct contact with the credit bureau should be made and an assurance check should be requested from these companies. If problems with "stale" information from credit bureaus persist, contact the Office of Financial Policy, OFM.

~~A-Section-14.0~~ **28.0** State, Local, and Other Governments

OMB Circular A-129 exempts State and local governments, as well as Federally-recognized Indian Tribal Governments, from the credit report requirement. However, organization units should be aware that quasi-governmental entities, such as educational institutions and various State and local government quasi-

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public operating entities, such as harbor and port authorities, are not necessarily exempted. Moreover, credit reports are generally available on these quasi-governmental entities from credit reporting bureaus. If questions exist on the creditworthiness of such an entity and its ability to repay A loan in A-timely manner, A-credit report on the applicant should be obtained. Organization units should obtain these reports when warranted to determine whether financial assistance should be granted to A-grant, loan, or loan guarantee applicant.

If organization units are unsure whether the credit report requirement applies to A-particular financial assistance applicant because of its relationship to A-particular State or local government or Federally-recognized Indian Tribal Government, guidance should be obtained from the organization unit's Office of General Counsel as to whether the organization is or is not an exempted entity.

Section 29.0 Credit Alert Interactive Voice Response System (CAIVRS)

What is it?

CAIVRS is a Federal government interagency shared database, which is used to alert participating Federal lending agencies when an applicant for benefits has a Federal loan which is currently in default or foreclosure, or has had a claim paid by the reporting agency.

What does it do?

CAIVRS allows authorized employees of participating Federal agencies to access a shared inter-Departmental database of delinquent Federal borrowers for the purpose of pre-screening direct loan applicants for credit worthiness, and permits authorized primary lenders acting on the Government's behalf to access the delinquent borrower database for the purpose of pre-screening the credit worthiness of applicants for Federally guaranteed loans.

How does it work?

Although there are several ways to access the system, the most common usage is by telephone. Authorized users, via touch tone, telephone will dial 301-344-4000 and be prompted to enter their CAIVRS Access code (an Agency assigned identification number or lender ID). The system will verify the authorization number and then prompt the caller to enter the SSN of the applicant. If the applicant's SSN is not in the database, the caller will receive a clear confirmation code. If there is a record of default for the borrower whose SSN was entered, the caller will be given the name of the Agency reporting the default, the case number of the defaulted loan, the type of record (default, claim, foreclosure, or lien judgment) and a telephone number to call for further information or assistance. CAIVRS is also accessible via Telemail utilizing secure data mailboxes, FTP/IP (Internet), Batch file transfer and via the HUD LAN and WAN.

Under what legal authority is CAIVRS implemented?

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CAIVRS authority derives from Public Law 100-503, **A**The Computer Matching and Privacy Protection Act of 1988,**@** as amended; Office of Management and Budget (OMB) Circulars A-129 (Managing Federal Credit Programs) and A-70 (Policies and Guidelines for Federal Credit Programs); the Budget and Accounting Acts of 1921 and 1950, as amended; the Debt Collection Act of 1982, as amended; the Deficit Reduction Act of 1984, as amended, and the Debt Collection Improvement Act of 1996, as amended.

How many records are in CAIVRS?

CAIVRS has over 2.4 million delinquent borrower records and over 61 thousand authorized user IDs from HUD, USDA, VA, SBA, FDIC, and the Departments of Justice and Education.

How does CAIVRS relate to Government Financial Management?

Title 31, United States Code, Section 3720B bars **A**delinquent Federal debtors from obtaining Federal loans or loan insurance guarantees.**@** CAIVRS provides a single repository of delinquent Federal debtor records with easy access through a variety of media for pre-screening applicants for Federal benefits. Most credit bureau reports do not identify insured debts as being delinquent Federal debts. By participating in CAIVRS, Federal lending agencies have ready access to an interdepartmental database of delinquent Federal debts which provide Federal financial managers with the information necessary to comply with the U.S. Code requirements.

How has CAIVRS benefited the participating Agencies?

Since 1987, over 24 million borrowers have been pre-screened through CAIVRS. As a direct result of participating in CAIVRS, HUD has avoided over \$12 billion in potential claims and over \$4 billion in potential losses. USDA and VA have also realized significant claim and loss avoidance benefits. Additionally, participating Agencies have realized cash collections of delinquent debts on an annual average in excess of \$2.9 million.

What does it cost to participate in CAIVRS?

The cost to participate in CAIVRS is predicated upon the number of records a given agency has in the database and the volume of transactions made by or for that Agency. Relative to the

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benefits outlined above, the cost of CAIVRS participation is nominal.

What is required for participation in CAIVRS?

In order to participate in CAIVRS, a Federal government agency must identify target program(s), publish System of Records Notice in the Federal Register amending appropriate Privacy Act Systems of Records, and work with HUD to enter into an Interagency Agreement and a Computer Matching Agreement.